

# Milwaukee Water Works Rate Case

Docket No. 3720-WR-108

Prehearing Conference Taken on:

April 30, 2014

***ORIGINAL***



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BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

APPLICATION OF MILWAUKEE WATER WORKS ) Docket No.  
 )  
FOR AUTHORITY TO INCREASE WATER RATES) 3720-WR-108

EXAMINER MICHAEL NEWMARK, PRESIDING

TRANSCRIPT OF PROCEEDINGS

VOLUME 1

PREHEARING CONFERENCE

**ORIGINAL**

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Public Service Commission  
Madison, Wisconsin

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EXHIBITS:

(None.)

## A P P E A R A N C E S

ON BEHALF OF MILWAUKEE WATER WORKS

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ON BEHALF OF VILLAGE OF BROWN DEER, VILLAGE OF GREENDALE, CITY OF NEW BERLIN, VILLAGE OF MENOMONEE FALLS, CITY OF MEQUON, VILLAGE OF SHOREWOOD, VILLAGE OF BUTLER, CITY OF WAUWATOSA, CITY OF WEST ALLIS

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ON BEHALF OF CLEAN WISCONSIN

ELIZABETH WHEELER, 634 West Main Street, Suite 300, Madison, Wisconsin 53703. Pat Planton, Jim Wojcehowicz, Mike Rau

(Continued)

1 A P P E A R A N C E S (Continued)

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7 Jeff Stone

8 David Prochaska

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1 (Discussion off the record.)

2 EXAMINER NEWMARK: Let's get on the  
3 record. Okay. This is a prehearing conference in  
4 docket 3720-WR-108, the application of Milwaukee  
5 Water Works for authority to increase water rates.  
6 I think. I don't have the full docket number --  
7 docket name on this document. But okay. It'll have  
8 to do.

9 So we're here for the prehearing  
10 conference and first thing we want to do is identify  
11 the parties. We do have an order identifying the  
12 parties, I don't know if -- is there anyone who  
13 hasn't been named in my intervention order that's  
14 appearing today? No? Okay. All right. And I just  
15 wanted to go and poll the intervenors. I just  
16 wanted to see if there's particular issues that  
17 they're interested in in this case or they're, you  
18 know, observing or they're generally concerned.

19 So if we could start with the wholesale  
20 customers, Ms. Kobza, are there any particular items  
21 that are of concern for your clients?

22 MS. KOBZA: Well, we haven't been able to  
23 meet yet. But I could give you a sense of a few of  
24 them. I expect that demand ratios will be an issue.  
25 I guess the change in the demand ratios from the

1 last rate case. Fire protection may be an issue.  
2 And then just the general issues that you have under  
3 2A on the issue list I believe encompasses most  
4 everything else.

5 EXAMINER NEWMARK: Okay. So that would  
6 be -- do you know if the wholesale customers are  
7 concerned with the transmission -- let's see, we  
8 have that listed, the transmission mains.

9 MS. KOBZA: We will have an issue with the  
10 allocation of transmission distribution main as  
11 proposed in the cost of service study which I  
12 believe is different than how it's been done in the  
13 last two rate cases.

14 EXAMINER NEWMARK: All right. And is that  
15 all you can think of for now? I'm not going to hold  
16 you to this. I just wanted to get a sense.

17 MS. KOBZA: Again, we haven't been able to  
18 all meet to go through things. But I think those  
19 are the largest issues.

20 EXAMINER NEWMARK: Okay. Great. Clean  
21 Wisconsin, any issues you can identify now at this  
22 point?

23 MS. WHEELER: We're primarily concerned  
24 with the EDR.

25 EXAMINER NEWMARK: And conservation rates,

1 is that an issue as well?

2 MS. WHEELER: We're not at this time  
3 planning to raise that.

4 EXAMINER NEWMARK: Okay. CUB.

5 MS. LOEHR: Also concerned with the EDR  
6 and we'll probably be focusing more on cost  
7 allocation and cost of service issues.

8 EXAMINER NEWMARK: And does the utility  
9 have anything they'd like to add to that? You're  
10 concerned with the whole thing. But any comment you  
11 want to make here?

12 MR. MILLER: Well, I didn't know if now  
13 would be an appropriate time, but we do want to  
14 provide comments on three of the issues listed in  
15 2B.

16 EXAMINER NEWMARK: We can get to that.  
17 Okay.

18 MR. MILLER: Yeah.

19 EXAMINER NEWMARK: And the staff, any  
20 comment on what the intervenors had mentioned?

21 MS. SILVER KARSH: Not at this time.

22 EXAMINER NEWMARK: All right. Well, let's  
23 get to the issues then. Right. The prehearing  
24 conference memo draft version has some proposed  
25 issues and, you know, the first section is just our

1 standard rate case issues. Section B just adds,  
2 sort of as a reminder or a placeholder that -- more  
3 specified, narrows it down a little bit to more  
4 specific issues, but the intention is that they're  
5 just placeholders, they're not meant to limit our  
6 case here.

7 (Attorney Joseph Wilson entered the  
8 hearing room.)

9 EXAMINER NEWMARK: Let's just get off the  
10 record.

11 (Discussion off the record.)

12 EXAMINER NEWMARK: Let's get back on. So  
13 we -- what I was doing before you got here,  
14 Mr. Wilson, was I was just polling the intervenors  
15 as to any particular issues they had with the case.  
16 So I just wondered if you know at this point if  
17 there's any, you know, particular concern that  
18 MillerCoors has that you can make the statement now?

19 MR. WILSON: I don't think that there's  
20 anything that we don't view as being covered by the  
21 general statement of the issues in the case.

22 EXAMINER NEWMARK: Okay. And there is  
23 nothing of particular interest that the company --

24 MR. WILSON: Not at this stage, Your  
25 Honor.



1 EXAMINER NEWMARK: All right. So can we  
2 all agree on the issue A, the general rate case  
3 issues? I don't think there is much controversy  
4 there. The issue under B, if the utility wants to  
5 comment on that, you can go ahead and do that now.

6 MR. MILLER: Thanks, Your Honor. In  
7 Section B, the sub-issues, we wanted to raise -- or  
8 provide comment on three of the issues. The first  
9 being the economic development rate. As Judge  
10 Newmark's very aware, this was an issue that was  
11 fully litigated in 3720-WI-102 which was an  
12 investigation into the implementation and proposed  
13 modification of the economic development rate. The  
14 Water Works' and the city's positions has not  
15 changed from our position in the record there that  
16 we no longer wish to have the economic development  
17 rate. And it's our understanding that none of the  
18 parties that either provided comments in any of  
19 those earlier proceedings or were invited to  
20 intervene have chosen to intervene in this docket.  
21 So we think that, you know, given -- we have an  
22 aggressive schedule here and that removing this item  
23 would help to produce an efficient rate case.

24 So that's our comment on that. I don't  
25 know if you'd like us to -- if you'd like me to move

1 on to the next comment or just wait for input on --  
2 EXAMINER NEWMARK: Yeah, why don't we go  
3 through -- I think CUB and Clean Wisconsin, do you  
4 have comments on the EDR issue? You stated that was  
5 a concern.

6 MS. LOEHR: Supportive of the city's  
7 position that with no one with an interest in it  
8 that it should be an issue that's taken off the  
9 table.

10 MS. WHEELER: We agree.

11 EXAMINER NEWMARK: Any other intervenors  
12 have comment on that? And Commission staff probably  
13 should be commenting as well.

14 MS. SILVER KARSH: Yes. We understand  
15 that there doesn't seem to be much interest in the  
16 EDR, but the Commission has raised this as an issue  
17 they wanted at least discussed. So I do think that  
18 it needs to remain as a sub-issue in this case.

19 EXAMINER NEWMARK: Okay. So in terms of a  
20 discussion, does staff -- is staff going to testify  
21 on it or how do we get -- what are we going to put  
22 in the record about it exactly?

23 MS. SILVER KARSH: I think at a minimum we  
24 would want the parties to state that they do not  
25 support, you know, having an EDR, their reasons for

1       that, and then have anybody else who supports that  
2       position comment on it. I don't believe at this  
3       time that staff is going to put forth testimony on  
4       EDR.

5               EXAMINER NEWMARK: Okay. Is that  
6       acceptable to the parties then if we could just have  
7       a brief statement in your testimony about whether  
8       you support or reject the concept of an EDR. And I  
9       guess we could just keep it -- if staff's not going  
10      to propose one, I think we just need to deal with  
11      EDR's conceptual framework instead of any  
12      particular, you know, proposal that parties would  
13      respond to. So if parties could just make a  
14      statement as to their position on it and we'd want  
15      that through testimony. Is that what staff was  
16      looking for?

17             MS. SILVER KARSH: Yes.

18             EXAMINER NEWMARK: Okay. Well, if that's  
19      okay, I think we can satisfy the requirements  
20      that -- satisfy the Commission's interest in the  
21      issue. So are there any questions about that? Go  
22      ahead.

23             MS. LOEHR: Must it come in through  
24      testimony? We have not decided yet whether or not  
25      we'll actually have a witness. We briefed it in

1 3720-WI-102. Is that -- is briefing acceptable?

2 EXAMINER NEWMARK: If you don't have a  
3 witness, then I suppose, yeah, testimony will  
4 work -- I mean briefing will work.

5 MS. LOEHR: Okay.

6 EXAMINER NEWMARK: Anyone else? Okay.  
7 All right. Next issue for Milwaukee, any other  
8 comments?

9 MR. MILLER: The second issue is B4 which  
10 has to do with future main replacement, so main  
11 replacement not looking at the test year which is  
12 covered in B3, but future main replacement. And  
13 while the utility understands that this is a -- that  
14 a future projected main replacement program is an  
15 issue that the Commission is interested in, we  
16 believe that it's not appropriate for the rate case,  
17 that we'd -- we don't believe that it fits into an  
18 analysis of the revenue requirement, the cost of  
19 service or the rate design because they would be  
20 looking at the test year. And looking at the  
21 projections of future main replacement really is a  
22 complex analysis that's based on projections, the  
23 unknowns of what debt is available to the city, what  
24 the cash will be, and what other non-water main  
25 capital projects may be competing with the water --

1 with the water mains in the future.

2 So, again, with an aggressive schedule, we  
3 just think that may be more appropriate outside of  
4 the context of this rate case proceeding.

5 EXAMINER NEWMARK: Okay. Do the parties  
6 want to comment on that? Commission staff?

7 MS. SILVER KARSH: Yes. I think this is  
8 an area where I understand that it is looking ahead  
9 of the test year. However, this goes towards the  
10 overall health of the utility, how they're going to  
11 go about the replacement, looking at a plan,  
12 understanding what kind of rate -- rate of return  
13 they might need or revenue requirement. And this is  
14 also something that the Commission expressed and  
15 explicitly expressed interest in. So I think this  
16 is something that needs to stay, there needs to be  
17 more than just looking at this test year, but  
18 looking ahead and seeing what's the plan going  
19 forward.

20 EXAMINER NEWMARK: So you would expect  
21 utility to provide something in direct testimony on  
22 this issue; is that it?

23 MS. SILVER KARSH: Yes. We'd like to see  
24 a comprehensive analysis of how that project is  
25 going to be done, how it will be financed. My

1 understanding is that some of the main replacement  
2 has fallen behind its -- what it was projected to  
3 be. Is there a plan to catch that up. I think  
4 there's definitely some information the Commission  
5 would like to see in order to make an informed  
6 decision.

7 EXAMINER NEWMARK: Okay. Any issue you  
8 want to bring up? I need to think about this.

9 MR. MILLER: Well, and if I might just  
10 respond to that. And this is something I've  
11 discussed with counsel from the PSC staff. It's  
12 informing the Commission so that they may make a  
13 reasoned decision, we don't know on what. Because,  
14 again, we just don't see how it fits into, you know,  
15 what is the appropriate revenue, what is the  
16 appropriate rate design, the appropriateness of the  
17 cost of service, but...

18 The third issue is B6, which is find  
19 reasonable the reduction in the number of accounts  
20 with more than three consecutive estimates in the  
21 test year and whether it constitutes reasonable  
22 progress on the multiple estimates project. Again,  
23 here we believe this is a topic that's unrelated to  
24 the revenue requirement, the cost of service or the  
25 rate design. It is an issue that Milwaukee Water

1 Works has been working with the Commission over the  
2 past few years.

3 We have reduced -- we've worked diligently  
4 to reduce the number of accounts with multiple  
5 estimates, from 12/31/2011 estimates of over 1,800  
6 down to 628 as of 12/31/2013. And we provide to the  
7 PSC reports every six months updating the Commission  
8 on our progress. And we believe that that reporting  
9 progress is really more appropriate for covering  
10 this topic and that it shouldn't be included in the  
11 rate case. Again, going to the efficiency of the  
12 process, working through an aggressive rate case  
13 schedule.

14 EXAMINER NEWMARK: Okay. Other parties?  
15 Commission staff?

16 MS. SILVER KARSH: Yes. We're actually  
17 fine with having that issue removed from this rate  
18 case as long as we continue to receive the reports  
19 on the progress. We understand staff's working with  
20 Milwaukee Water Works and that can be taken off the  
21 table at this time.

22 EXAMINER NEWMARK: And in terms of issue 4  
23 that's not a similar situation where it seems to be  
24 a future reporting process that may cover this  
25 issue? Well, I suppose in terms of issue B4 we can

1 look at the -- is there a current schedule in --  
2 that's available to -- for main replacements that we  
3 can provide in this proceeding or is it more of a  
4 kind of ambiguous thing?

5 MR. MILLER: Well, we first -- we provided  
6 a main replacement report along with our  
7 application. And then that has generated follow-up  
8 questions by PSC staff. And so that information is  
9 actually in the responses to data requests already.  
10 So I don't know, maybe that information is -- well,  
11 it's definitely in the data requests; but maybe, you  
12 know, that could answer the, you know, the questions  
13 that the Commission has.

14 EXAMINER NEWMARK: Right. Okay. So --  
15 right. Well, let's leave the issue up for  
16 discovery. And if there is, you know, a  
17 presentation that the staff would like to make on  
18 that, what they find, what gets received in  
19 discovery, then we can allow that and let the  
20 company respond. But I'm not -- I do understand the  
21 issue that the company's -- that the utility is  
22 raising in terms of ambiguity looking at the terms  
23 of funding this into the future. But with that  
24 caveat, I think if we can allow staff to include in  
25 its presentation information it collects and any



1 conclusions it can make from that -- from its  
2 discovery.

3 So any other problems with the issues  
4 list?

5 MR. MILLER: Those are the three issues  
6 that we wanted to provide comments on. Thank you.

7 MR. WILSON: Judge, could I just ask for a  
8 clarification about this list in B. Is this  
9 intended to be the exclusive list of areas into  
10 which discovery will be appropriate or will  
11 discovery be appropriate with respect to any issues  
12 that would fall under the issues outlined in A,  
13 which is how I think this case -- the Milwaukee  
14 Water Works cases have traditionally been run?

15 EXAMINER NEWMARK: Right, the latter is  
16 correct in terms of this is just placeholders in  
17 terms of identifying some particular items that  
18 would fall within issues A1 through 3.

19 MR. WILSON: Thank you, Judge.

20 EXAMINER NEWMARK: All right. Are there  
21 any other questions about the issues? No?

22 All right. Now we're at the schedule part  
23 of this. Like Mr. Miller has described it, it's a  
24 very aggressive schedule. There are reasons that --  
25 for that, of course. So do we have any comments

1 about whether the schedule is acceptable or not?

2 Does the utility want to start?

3 MR. MILLER: We've already communicated to  
4 PSC staff that we are fine with the schedule. We  
5 reserved the conference room on June 25th.

6 EXAMINER NEWMARK: Right. Yeah, we're  
7 going to correct that. Thanks for... Okay. All  
8 right. And any other comments on the schedule?

9 MS. WHEELER: I just wanted to comment  
10 that I previously thought we might have a conflict  
11 with the technical hearing, but I think that's been  
12 resolved. So we're fine with it.

13 EXAMINER NEWMARK: Okay. Great.

14 MS. KOBZA: Just -- I do have some  
15 comments. Just that we agree that it's a very  
16 aggressive schedule, and the concern -- or one of  
17 the concerns we would have is just how the discovery  
18 is going to work with this schedule; and given the  
19 discovery times that are in this prehearing  
20 conference memorandum, I think those need to be  
21 revised if we're going to try to keep to this  
22 schedule. The discovery has to be received quicker  
23 than what it says in this prehearing conference  
24 memorandum.

25 I guess one other thing I would ask, and I

1 think this is pretty modest, is that for the dates  
2 for the direct, rebuttal and surrebuttal, instead of  
3 having the testimony and exhibits due at noon, that  
4 we make it something more like 4:30 so we at least  
5 have that day to be working with our witnesses to  
6 finish up those testimonies.

7 EXAMINER NEWMARK: Okay. Yeah, I can move  
8 that given the tight time frames. I just wanted to  
9 make sure if staff -- if we moved it to, like, say  
10 4 p.m., Friday at 4 p.m., any concern with staff?

11 MS. SILVER KARSH: I think that's fine.

12 EXAMINER NEWMARK: Okay. So we'll change  
13 it to 4. So just the prefiled testimony, direct,  
14 rebuttal and surrebuttal. Does that satisfy the  
15 wholesale customers? I'm just wondering, can I call  
16 them wholesale customers? Is that a good monicker  
17 for all the municipal wholesale customers, or what  
18 do you want to do with that?

19 MS. KOBZA: I'm fine with that.

20 MR. MILLER: Um-hmm.

21 EXAMINER NEWMARK: All right. Yeah,  
22 another question in terms of -- we'll get to the  
23 discovery in just a second. But I just wanted to  
24 mention another issue with timing is I was looking  
25 back at the transcripts from the last case and,

1       surprisingly enough, with all the parties and  
2       interest in the case, we did get through both the  
3       party and public hearing in one day switching  
4       through back and forth from -- between party and  
5       public sessions. So I would expect we'll do  
6       something like that this time.

7               And in terms of the public session, I  
8       think we set it for 1:00 and 5:00, I think. So I  
9       would expect times similar to that if that's okay  
10      with everybody.

11             MR. WILSON: Your Honor, while we're on  
12      the topic of schedule. I saw this morning that  
13      staff has issued a new cost of service proposal. Is  
14      staff also going to be issuing a rate design  
15      proposal in this case, and if so, when?

16             MR. PROCHASKA: Staff has not submitted a  
17      cost of service study. We will if we deem it  
18      necessary to supplement the record. We have not  
19      made that decision yet, though.

20             MR. WILSON: On rate design?

21             MR. PROCHASKA: On whether we're going to  
22      put forth a cost of service study and/or rate  
23      design. We have some concerns -- I mean, we have  
24      some issues to discuss with Milwaukee with respect  
25      to their specific rates, trying to bring them into

1 the standardized rates that we have to the extent  
2 possible. So, I mean, that will of course -- as a  
3 result of whatever decision is made in this case,  
4 you know, it will generate the rate sheets  
5 themselves.

6 MR. STONE: But I think we were looking  
7 for Milwaukee to provide a rate design.

8 MR. PROCHASKA: Yes.

9 MR. STONE: So that's our expectation is  
10 Milwaukee would be presenting a rate design.

11 MR. WILSON: Okay.

12 MR. STONE: Which is -- I mean,  
13 normally --

14 MR. MILLER: Yeah. What came out today,  
15 and we were in transit as well, was the revenue  
16 requirement.

17 MR. WILSON: Okay. I'm sorry, I didn't  
18 have a chance to take a closer look.

19 MR. PROCHASKA: Yeah, with an updated  
20 revenue requirement, the cost of service study will  
21 need to be redone and then the rates redesigned  
22 based on the updated cost allocations.

23 MR. WILSON: Understood. And as far as  
24 the timing of that, would you expect that that would  
25 be something that would come out with staff's direct

1 testimony or before then?

2 MR. PROCHASKA: Again, staff is not at  
3 this time planning on putting forth the cost of  
4 service study.

5 MR. WILSON: Okay.

6 MR. PROCHASKA: The applicant has put  
7 forth the cost of service study and rate design.  
8 Now there's an updated revenue requirement, they'll  
9 be redoing their cost of service study and rate  
10 design. Staff at this point is not planning on  
11 doing a cost of service study and rate design.

12 MR. WILSON: Okay.

13 MS. KOBZA: So I guess then the question  
14 is for the city, is when do you expect that you  
15 would have -- well, you would have a redesigned --  
16 an updated cost of service study if you're accepting  
17 the revenue requirement.

18 MR. MILLER: And we haven't had an  
19 opportunity to review the revenue requirement, but  
20 we will be revising the COSS. And we have talked  
21 with the Commission staff about this in advance that  
22 we will likely be re-filing a revised cost of  
23 service study and a rate design based upon the  
24 revenue requirement.

25 MS. LEWIS: And I guess the question for

1 us is whether that should be part of our direct  
2 testimony or that should be a separate submission.

3 MR. MILLER: Right. I guess maybe that's  
4 a topic for today.

5 EXAMINER NEWMARK: Right. Glad we circled  
6 back to that. If you could file it as soon as you  
7 have it available, so if it's prior to direct, the  
8 deadline for direct, it would be beneficial for  
9 everyone to file that.

10 MS. KOBZA: Because realistically,  
11 especially since many of our issues have to do with  
12 the cost of service study, our experts aren't going  
13 to be able to offer direct testimony and so you're  
14 just going to get our experts' testimony and  
15 rebuttal. I don't necessarily know that you want  
16 that either. So the sooner we could get a revised  
17 cost of service study the better for everybody.

18 MS. SILVER KARSH: We had discussed on  
19 that a deadline of May 14th, but if it's possible to  
20 do it sooner than that.

21 MS. LEWIS: We would try to bring it in  
22 sooner.

23 MS. SILVER KARSH: Then that would be  
24 ideal.

25 MR. MILLER: Okay.

1 MS. LEWIS: We'll try.

2 EXAMINER NEWMARK: We'll leave that up --  
3 I mean, I'll say let's just get it in as soon as you  
4 have it available. And the date I think you'll have  
5 to work out with staff and -- you know, between the  
6 staff and the utility. But as soon as it's  
7 available, just file it.

8 MR. MILLER: Right. And I think because  
9 the revised cost of service will answer your  
10 discovery I think you've asked for, right, so we  
11 want to be, you know, cognizant of the time frames  
12 for responding for your discovery requests as well.

13 MR. WILSON: Okay.

14 EXAMINER NEWMARK: Okay. All right.  
15 Well, that's all for schedule. We can move on to  
16 discovery issues with discovery.

17 MS. LOEHR: Judge, can I ask you one for  
18 question on schedule with respect to the decision  
19 matrix. Is it contemplated that there will be two  
20 rounds associated with comments and positions on the  
21 decision matrix?

22 EXAMINER NEWMARK: Well, the way it's  
23 drafted is that there's a round for adding positions  
24 and then a round for making comments. Now, that's  
25 the mechanism that staff had provided to me. I



1 don't know if there has been a change in what -- how  
2 staff wants to organize the decision matrix and the  
3 schedule for that. No? Okay.

4 So it's staff issuing a draft decision --  
5 issuing a, you know, incomplete decision matrix,  
6 parties completing the decision matrix with their  
7 positions, then staff issuing a draft decision  
8 matrix of all the positions, and then parties  
9 commenting on the draft, and then staff issuing the  
10 final.

11 So, yeah, I think there is an extra step  
12 in there that we're used to seeing; but that's the  
13 way we've been -- that's the way Commission staff  
14 wants to organize that. So we will do that. Okay.  
15 All right.

16 So with discovery, let's address there's a  
17 timing issue -- there may be a timing issue; but I  
18 think if we look at it, hopefully look at this a  
19 little closer, there may not be. So discovery is  
20 basically covered in prehearing memo Section 4A2 in  
21 terms of timing and, you know, what we -- the  
22 overall rule is when you can -- by the time that you  
23 have an answer, file it and serve it. File -- the  
24 word "file" in this memo also includes service  
25 because it's -- filing means you've served it to

1 everyone. So I think maybe the utility and staff  
2 had come up with a slightly different process, but  
3 we need to back that up and follow what we have in  
4 the memo. I think it would be beneficial for  
5 everyone in terms of the tight time frames here.

6 So I was just given the understanding that  
7 what was -- what had been agreed between staff and  
8 utility was that staff would send out some data  
9 requests and the utility would answer by sending the  
10 answers through e-mail to staff, but they would  
11 refrain from filing the response until all the  
12 answers were collected, and so they could be filed  
13 in one document as the response to data request X.  
14 But that's not how we usually run this. What we  
15 need to do is get answers to any particular question  
16 filed as soon as they're available. And this way  
17 staff and parties can have all the information as  
18 soon as they can.

19 So if there are some outstanding -- if  
20 there are some answers that have already been  
21 provided to staff that aren't on ERF, let's put that  
22 on ERF, you know, as soon as we can. And from this  
23 point on, just when you get an answer, you want to  
24 send it -- serve it and file it to all parties and  
25 Commission staff.

1                   So that might help some of the timing  
2                   issues that the intervenors have mentioned. But in  
3                   terms of the actual days that are in the -- you  
4                   know, that are provided in the memo, again, they are  
5                   maximum days, so the rule of getting things out as  
6                   soon as you have the answers is still holding even  
7                   though we are going through the surrebuttal and  
8                   rebuttal stage.

9                   But I guess the concern is that those  
10                  dates go further out than there is -- than there is  
11                  time for filing rebuttal, is that part of it? Yeah.  
12                  And they're so short, the time frame available.  
13                  Yeah, I mean, I don't know what -- how -- what  
14                  parties think about shortening those times. We may  
15                  need to -- there's a seven-day window in rebuttal  
16                  and a two-day window for surrebuttal. If we made it  
17                  four days for rebuttal, I don't know if it's even  
18                  realistic.

19                 MS. KOBZA: And we're concerned about  
20                 after direct.

21                 EXAMINER NEWMARK: Right. Oh, after  
22                 direct.

23                 MS. KOBZA: Right now the way you read  
24                 direct, it gives you 21 days where our rebuttal has  
25                 to be in in ten days or something.

1 EXAMINER NEWMARK: Okay. Well, do you  
2 have some dates you can -- how many days -- I guess  
3 Milwaukee's going to be answering most of these  
4 questions. So how many days do you think you would  
5 need in terms of responding to discovery? I mean, I  
6 don't -- it's kind of...

7 MR. MILLER: Well, I think the concern  
8 that we would have is that same short time frame for  
9 direct and rebuttal and surrebuttal applies to the  
10 Water Works, and we will both be filing our rebuttal  
11 testimony and responding to discovery. So...

12 EXAMINER NEWMARK: Right. Well, what I  
13 can say -- I'm just going to get rid of the  
14 prescriptions and -- for dates and just say, you  
15 know, respond as quickly as possible. And I  
16 don't -- I don't know what we'll do. If you can't  
17 answer by the time there's rebuttal, then I suppose  
18 the party can address it on surrebuttal. We'll just  
19 take that kind of out of order. We'll just have to  
20 play that by ear and see how serious it is. Because  
21 hopefully the issues are getting smaller, the  
22 questions are getting shorter, and the answers are  
23 getting shorter as we go through the rounds of  
24 testimony.

25 So at this point we'll have to -- we'll

1 just have to see how that goes. But with the  
2 understanding that when you get -- when you have the  
3 answer, serve it and file it, hopefully that will  
4 satisfy everyone. If there's any problems, just let  
5 me know and we'll try to work out an alternative  
6 accommodation for that.

7 MS. KOBZA: I have a question. I  
8 understand that staff has asked for a copy of the  
9 demand study and that that hasn't been provided yet.  
10 I don't know if it's not prepared yet. Do you have  
11 an idea of when that will be ready and available?

12 MR. MILLER: It is not prepared yet. It  
13 should be ready next week.

14 MS. KOBZA: I'm just concerned that what's  
15 going to happen is that we're not going to have the  
16 information we need to do direct testimony and that  
17 then we're going to essentially be putting  
18 everything in through rebuttal and...

19 MR. MILLER: We do want to say we're  
20 trying as quickly -- as hard as we can to get both  
21 responses to PSC staff but also, you know, the  
22 report in as well.

23 EXAMINER NEWMARK: Well, like I said, I  
24 think we'll make accommodations if the information  
25 is not available within the time -- within a

1 reasonable time to put your response in direct, put  
2 your testimony on the issue in direct. And, you  
3 know, if we have -- if that means we have to do more  
4 testimony at the hearing, that's the way it's going  
5 to be. But hopefully, you know, it won't be too  
6 much of a burden, won't be too overwhelming in terms  
7 of what we need to -- you know, pushing information  
8 back into different rounds of testimony.

9 MS. KOBZA: I have one or two other  
10 questions. I believe Commission also asked for an  
11 electronic copy of -- what was it, the cost of  
12 service study?

13 MR. PROCHASKA: Yes, that's correct.

14 MS. KOBZA: Do we know when they'll get  
15 that and can the other parties also get a copy of  
16 that?

17 MR. MILLER: I believe that --

18 MS. LEWIS: We would ideally like to look  
19 at the revenue requirement, and we would like to  
20 give you a cost of service model that incorporates  
21 any changes from the revenue requirement so that  
22 you're not doing your analysis on something that  
23 isn't the final version that goes in.

24 MS. KOBZA: I can understand that. But on  
25 the other hand, putting off our analysis for two

1 weeks when we have only four weeks to put in  
2 testimony makes it difficult for us too. I think  
3 you were saying the cost of service would be  
4 May 14th maybe.

5 MS. LEWIS: Well, it's very -- well, I  
6 said next week which is, like, May 7th. It might be  
7 tomorrow, it might be Friday. We are trying really  
8 hard to do it.

9 MS. KOBZA: Okay.

10 MS. LEWIS: And I think that when the  
11 customer demand study is finalized, that has some  
12 edits in the cost of service, the preliminary cost  
13 of service study as does the revenue requirement.  
14 So could I reassure you that we're working really  
15 hard to do that, get back, take a look at the  
16 revenue requirement and let you know when we might  
17 make the non-beta version of it available to you?

18 MS. KOBZA: And we would also get an  
19 electronic version, too, in addition to the hard  
20 copy?

21 MS. LEWIS: Yes, absolutely.

22 MS. KOBZA: Okay.

23 MR. MILLER: Staff had said May 14th; and  
24 what Carrie says, we're going to try as hard as we  
25 can to get that before May 14 so you're not waiting

1 'til May 14th for the cost of service study.

2 EXAMINER NEWMARK: Okay. Questions?

3 MS. LOEHR: Can I ask just a general  
4 clarifying question to make sure I understand what I  
5 think is happening. So Milwaukee sometime, as soon  
6 as possible but definitely on or before May 14, is  
7 going to file a new cost of service study. Will  
8 they also be filing an acceptance or rejection of an  
9 individual adjustment listed in the revenue  
10 requirement?

11 MS. LEWIS: No.

12 MR. MILLER: No, I don't believe that we  
13 were asked to accept or reject the revenue  
14 requirement. We were I think -- I guess it's  
15 implicit in our revised filing of the revised cost  
16 of service study.

17 MS. LOEHR: So the revised cost of service  
18 study may reflect exactly the adjustments that staff  
19 made in the revenue requirement that we got this  
20 morning or it may be something else.

21 MS. LEWIS: Yes.

22 MR. MILLER: Well, yes, but we haven't had  
23 an opportunity to review the revenue requirement.

24 EXAMINER NEWMARK: So you won't just be  
25 taking staff's revenue requirement and running that



1 through the cost of service study, you'll be making  
2 your own adjustments or doing a sifting and  
3 winnowing of staff's proposal?

4 MR. MILLER: Well, I think already we had  
5 identified there was one issue that had been  
6 communicated to PSC staff about the revenue  
7 requirement, and that --

8 MS. LEWIS: In the ideal world, we've  
9 worked very, very closely with staff on the revenue  
10 requirement back and forth every step of the way so  
11 far. And we have mostly agreed with all of the  
12 individual suggestions and proposals to make  
13 modifications. This is the first time we've seen  
14 the whole package all together. But absent a, you  
15 know, surprisingly severe change, which is highly  
16 unlikely given how closely we have worked with it,  
17 we will most likely take what staff has given us,  
18 plug that into the beta version of the cost of  
19 service model, plug in any changes from the customer  
20 demand study, and then we will have a cost of  
21 service document and live model that is ready to be  
22 shared.

23 EXAMINER NEWMARK: Okay. And that will  
24 then be the current proposal from the utility?

25 MS. LEWIS: Yes. And then there will be

1 another iteration to get us to the actual rate  
2 design after that. But at least we can hurry up and  
3 try to get that out as quickly as we can.

4 MS. LOEHR: And if there are deviations  
5 from the staff's revenue requirement, can you  
6 highlight what they are?

7 MS. LEWIS: If there are deviations, we'll  
8 be bringing them up with staff right away.

9 MS. LOEHR: And when you provide the  
10 revised cost of service study, rather than simply  
11 providing a revised cost of service study that  
12 doesn't match the revenue requirement and staff  
13 adjustments, can you identify which categories of  
14 COSS were changed?

15 MS. LEWIS: Sure.

16 MR. MILLER: Yes, we can do that.

17 EXAMINER NEWMARK: All right.

18 MR. WILSON: Judge, could I also ask a  
19 clarifying question, and that is which parties are  
20 expected to file testimony at which deadlines? I  
21 understand, of course, the utility would be filing  
22 direct testimony. It sounds as though the wholesale  
23 customers will also file direct testimony?

24 MS. KOBZA: Well, in my experience, most  
25 parties filed direct testimony and didn't just wait

1 'til the rebuttal stage. But it depends if we have  
2 anything that we can file on direct.

3 EXAMINER NEWMARK: Well, usually direct is  
4 the -- what's implicit is that it's a case that the  
5 party wants to make, a proposal that the party is  
6 putting out there. If it's simply a response to  
7 what the -- what's being presented by the utility, I  
8 mean, technically that is rebuttal. So actually  
9 that might solve some of your timing issues now that  
10 I think about it. But --

11 MR. WILSON: Yeah, right. That's sort of  
12 my question, you know, that as intervenors in  
13 particular, I presume we would be reacting to the  
14 proposals set forth by the city. But maybe I'm not  
15 thinking about this the right way.

16 EXAMINER NEWMARK: Right, right. No, it's  
17 typically what we would end up doing. So, I don't  
18 know, if the wholesale customers have a particular  
19 proposal for direct, that might not be necessary to  
20 have all that come in so soon.

21 MS. KOBZA: Well, I think we're going to  
22 need more than one week to review -- or whatever it  
23 was, ten days to review a proposal. So if the idea  
24 is that you don't come forward with your proposal  
25 until your direct testimony, then this schedule is

1 just not at all workable because it doesn't really  
2 give us an opportunity to review and put in our  
3 testimony.

4 EXAMINER NEWMARK: Right. Right. But  
5 given the idea that basically the, you know, the  
6 models and the studies will be provided to everyone  
7 through discovery prior to the direct testimony  
8 deadline, then essentially really we have until  
9 rebuttal to respond to what's coming in, you know,  
10 on discovery and what -- how it's been described and  
11 presented in direct. So, you know, that's  
12 another -- that would give you a -- the extra ten  
13 days.

14 MS. SILVER KARSH: Alternatively, would  
15 Milwaukee be willing to up the date for direct?

16 MR. MILLER: I'm sorry?

17 MS. SILVER KARSH: Would Milwaukee be --  
18 if we're going to sort of change things around and  
19 have intervenors stick with the rebuttal date but  
20 provide them more time, would Milwaukee, especially  
21 given how their timing is for providing the updated  
22 information, would you be willing to move direct  
23 testimony, the date -- make it an earlier date that  
24 provides more time between direct and rebuttal?  
25 Would that be helpful?

1 MR. MILLER: Well, I think the -- by  
2 saying that we're providing the COSS which everybody  
3 is going -- that's what everybody is really looking  
4 for, on or before May 14th, that would give an  
5 entire month before -- if the wholesalers and other  
6 intervenors are responding to the COSS, that's an  
7 entire month for them to prepare their rebuttal.

8 So I wouldn't actually even see the need  
9 to move up the direct testimony of the utility if  
10 we're the only ones providing direct testimony;  
11 unless we would be submitting the cost of service  
12 with our direct testimony, the revised cost of  
13 service with our direct testimony as the  
14 presentation of the utility. And that may be --  
15 maybe that's the best way to build off of, you know,  
16 here's the case, with the utility presenting its  
17 direct testimony, maybe it is a week earlier, with  
18 the rebuttal then by the intervenors responding to  
19 that. But I don't think -- I mean, I don't -- it is  
20 so short of a period, I think that really puts us at  
21 a disadvantage if we're providing the COSS out in  
22 advance of a month before the testimony for the  
23 intervenors would be due and yet still moving up our  
24 testimony.

25 MS. KOBZA: And this is just a little

1 different than what I'm used to. But if this is the  
2 case, then it would be really only Milwaukee  
3 providing direct testimony and then the intervenors  
4 providing rebuttal testimony but not Milwaukee  
5 because Milwaukee would have nothing to rebut.

6 EXAMINER NEWMARK: Right.

7 MS. KOBZA: And then surrebuttal would  
8 only be Milwaukee. And so the intervenors'  
9 surrebuttal, if you would, would all take place on  
10 the stand.

11 EXAMINER NEWMARK: Right.

12 MS. LOEHR: Your Honor, the surrebuttal  
13 could theoretically be intervenors to intervenors.

14 MS. KOBZA: Well, not if it's only -- oh,  
15 to intervenors, yes, sorry.

16 EXAMINER NEWMARK: Right. Well, I'm  
17 willing to do that if it helps intervenors get more  
18 time for looking at, you know, the real substance of  
19 this case which is the reports and studies that  
20 utility is going to create. And, like I said, you  
21 know, we can overlap the concept of direct and  
22 rebuttal if intervenors don't get enough time. And  
23 that was what I was mentioning before with  
24 discovery, that we could have their response to  
25 these studies be in rebuttal if necessary. But if

1 really all intervenors are doing are responding to  
2 the company, then it's appropriate to just have them  
3 submit that on rebuttal and then they get more time  
4 to do so. And, sure, we can do the rebuttal from  
5 intervenors at the hearing. That's acceptable too.

6 MS. LOEHR: I guess one more clarifying  
7 question of Milwaukee. Do you contemplate a  
8 difference -- or what do you contemplate as a  
9 difference between the direct testimony and  
10 adjusting the revised -- final review of the revenue  
11 requirement and cost of service study? What might  
12 you do in direct testimony that would not be your  
13 reaction to the revenue requirement adjustments and  
14 the revised cost of service study?

15 MR. MILLER: Well, our direct testimony  
16 would address all of the issues set out in the  
17 prehearing conference.

18 MS. LOEHR: I forgot about that. Okay.  
19 Thanks.

20 EXAMINER NEWMARK: Right. And to be  
21 honest with you, I don't want to burden the utility  
22 by moving up their direct testimony date because  
23 they're trying to get all the other information out  
24 at the same time. And I'm sure intervenors can  
25 sympathize with that.

1 MS. LOEHR: Yep.

2 EXAMINER NEWMARK: So I would give you the  
3 extra time to actually produce the direct testimony,  
4 you know, not rolling it back with the deadlines for  
5 the studies.

6 MR. MILLER: Right. I mean, I just -- I  
7 think there is concern from the intervenors about  
8 when they're actually going to get the discovery;  
9 but we have been talking here today, you know,  
10 May 14th. I mean, this is --

11 MS. LEWIS: Or when each part is available  
12 and not waiting. You're going to get it much sooner  
13 if we're giving you bits as they're completed rather  
14 than waiting until they're completely...

15 EXAMINER NEWMARK: You know, let's leave  
16 it like this. Let's leave the schedule where direct  
17 will be the response of intervenors. If there's a  
18 problem with timing, we'll push it back to the  
19 rebuttal deadline. Let's be flexible about that  
20 right now. Because it looks like if things are  
21 filed as they come in, if things are filed as  
22 they're known and you get enough time to make your  
23 response during the -- in the direct deadline, that  
24 gives everyone a chance to put their statements on  
25 paper, you know, in terms of rebuttal and



1       surrebuttal, which it's always been efficient to do  
2       that, present as much as we can in the prefiled, in  
3       prefiled format rather than on the stand. So, but  
4       like I said, we can be flexible with that. If the  
5       intervenors aren't getting the information in enough  
6       time, we can move that -- we can move what  
7       intervenors will present to rebuttal. But let's  
8       shoot for the direct -- let's shoot for presentation  
9       on -- by intervenors on what the company's proposing  
10      for the direct deadline. Does that make sense?

11               MR. MILLER: Judge, does that mean that  
12      utility and all intervenors will be participating in  
13      each of these rounds?

14               EXAMINER NEWMARK: Yes, yes. Right.

15               MR. MILLER: Okay.

16               EXAMINER NEWMARK: And if something has to  
17      be -- if you need to make a statement in your direct  
18      saying we don't have enough information on this  
19      particular issue, we're going to withhold our  
20      presentation on that until rebuttal, that's fine.  
21      So at least, you know, if you want to save a  
22      placeholder in your direct saying we didn't get  
23      enough information yet, we expect to be able to  
24      present our position on this in rebuttal during the  
25      rebuttal round, that's fine. So at least -- so you

1 can take care of that, you know, you can have that  
2 flexibility in your response. But if you can get as  
3 much as you can presented by -- on June 4th, do so  
4 and then with the idea that if you need to use  
5 rebuttal -- that rebuttal date for that purpose, you  
6 can always back up your statements or position on a  
7 particular thing and present it for the first time  
8 during that rebuttal deadline. Okay. You're giving  
9 me a blank look.

10 MS. KOBZA: No, no.

11 EXAMINER NEWMARK: Okay. I want to make  
12 sure you can... Anything else with this conundrum?

13 Okay. I wanted to make a statement,  
14 though, kind of relates to pre-filing and all that  
15 stuff. The only glitch I saw in the last case was  
16 we had the issue where officers and employees of  
17 various parties were appearing during the public  
18 hearing to put in testimony. Let's avoid that this  
19 time. And so any presentation from an officer or an  
20 employee, anyone related to a party, should be  
21 presenting testimony during the prefiled, in a  
22 prefiled round to give everyone an opportunity to  
23 see that ahead of time. You know, it might be -- I  
24 mean, you can make the caveat that this is my  
25 personal opinion; but if it's coming from, you know,

1 the board chair or the mayor or whoever, have that  
2 person put it in direct, I guess most appropriately  
3 would be direct. But, you know, if they need to do  
4 in one of the prefiled rounds, that would -- we're  
5 going to hold you guys to that standard at least to  
6 get those statements prefiled rather than have them  
7 submitted at the public session. Okay. Any  
8 questions about that? All right.

9 The other thing I wanted to point out is  
10 in the facilitating matters, the Section 4, we have  
11 a new process for -- well, first of all, I have good  
12 news, three paper copies are all that's required.  
13 So you can come here -- come out of this prehearing  
14 feeling like you've had a victory here.

15 The other change in the process is  
16 corrections to transcripts. And people may not be  
17 aware, but we -- Adela Felic, our trusted employee  
18 for all things transcription, has retired. So we  
19 are relying on our friends, our contract reporters,  
20 to help us with organizing the transcript and  
21 producing the -- both the draft transcript and the  
22 final version. So I think really the bulk of the  
23 process is on page 6, that letter G, and it talks  
24 about offering corrections to the transcript and  
25 that you will be getting a draft version from the

1 court reporter. And that version, you can offer  
2 corrections to, and then the -- there is a process  
3 that -- basically a time frame in case there's  
4 objections to those proposed corrections. But  
5 essentially corrections will be submitted to the  
6 court reporter; and then after this process, the  
7 court reporter will issue the official version  
8 taking into account the proper corrections.

9 I don't think it's going to come up in  
10 this case, but there is an issue with confidential  
11 in camera transcripts which complicate this; but I  
12 think we can avoid that here in this case. So we  
13 won't have to review that.

14 And another caveat to this is in terms of  
15 creating the prefiled volumes, the final official  
16 prefiled testimony, you'll need to -- if there's a  
17 correction that you want to make on a prefiled  
18 submission, you'll need to re-submit that with all  
19 the corrections. And I would suggest we just do  
20 that after the hearing so that in case there's  
21 corrections, you know, the corrections should come  
22 in as an errata before the hearing; but then after  
23 the hearing, submit a completed -- a complete new  
24 corrected version of that prefiled testimony.

25 Whether those corrections came in, you know, on the

1        prefiled errata or during the hearing or -- yeah.  
2        So this way when we make that volume of prefiled  
3        testimony, the corrections will already be in the  
4        documents we're compiling. That will make things  
5        run much more smoothly since we have limited staff  
6        resources here.

7                    And that's the big change. I think the  
8        vestige of possibly an older system was it's still  
9        on the memo, it's on page 6, it's 5C. And basically  
10       I'm just going to eliminate that line because it's  
11       covered in the new process. So you'll see that it's  
12       a different -- that will be a difference in the memo  
13       that comes out. Otherwise, I think that's all the  
14       changes I need to mention.

15                   Are there any questions? I can take  
16       questions. No? Okay. So any other issues? All  
17       set?

18                   All right. Thanks very much. We're  
19       adjourn.

20                   (The hearing concluded at 11:17 a.m.)  
21  
22  
23  
24  
25

1 STATE OF WISCONSIN )

2 MILWAUKEE COUNTY )

3

4 I, LYNN M. BAYER, RMR, Certificate of Merit  
5 Reporter with the firm of Gramann Reporting Company, 740  
6 North Plankinton, Suite 400, Milwaukee, Wisconsin, do  
7 hereby certify that I reported the foregoing proceedings,  
8 and that the same is true and correct in accordance with  
9 my original machine shorthand notes.

10 DATED THIS 9th DAY OF May, 2014.

11

12

*Lynn M Bayer*

13

14 Lynn Peppey Bayer

15 Certificate of Merit Reporter

16

17

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19

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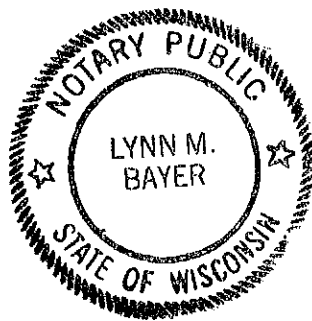
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